

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FIREMAN’S FUND INSURANCE COMPANY,

Plaintiff,

v.

ONEBEACON INSURANCE COMPANY,

Defendant.

Case No. 14-cv-4718(PPG)

~~[PROPOSED]~~
FINAL JUDGMENT

WHEREAS this cause came before the Court on the Complaint of Plaintiff Fireman’s Fund Insurance Company (“Fireman’s Fund”), dated June 26, 2014, seeking monetary damages against Defendant OneBeacon Insurance Company (“OneBeacon”) arising out of OneBeacon’s alleged breach of its obligation to pay amounts due under a Certificate of Facultative Reinsurance No. FC 4620, effective March 15, 1983 to March 15, 1984 (the “Contract”).

WHEREAS in July 2015, following completion of discovery, the parties filed Cross-Motions for Summary Judgment [ECF Nos. 34 and 44].

WHEREAS on March 31, 2016, this Court denied parties’ Cross-Motions for Summary Judgment without prejudice [ECF No. 56].

WHEREAS on May 19, 2016, both parties renewed their Cross-Motions for Summary Judgment and filed supplemental briefs [ECF Nos. 60 and 61].

WHEREAS on October 19, 2020, this Court issued an Order granting Fireman’s Fund’s Motion for Summary Judgment, and denying OneBeacon’s Cross-Motion for Summary Judgment, and finding that OneBeacon is bound to accept Fireman’s Fund’s settlement and allocation (the “Order”) [ECF No. 70].

WHEREAS this Court further directed Fireman's Fund to submit a proposed Judgment, with an affidavit explaining its calculations of the amount due to Fireman's Fund [ECF No. 70].

WHEREAS this Court is authorized to enter pre-judgment interest at the New York statutory rate of 9% per annum pursuant to NY CPLR § 5004 from the date when OneBeacon breached the Contract by failing to pay Fireman's Fund's bill for its share of Fireman's Fund's settlement with Asarco, Inc.

WHEREAS this Court finds that the date of OneBeacon's breach of the Contract was February 17, 2013 (*i.e.*, 31 days after Fireman's Fund's bill).

WHEREAS this Court is authorized to order post-judgment interest at the federal statutory rate pursuant to 28 U.S.C. § 1961 from the date this Judgment is entered until payment is made.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that for the reasons set forth in the Order:

1. Fireman's Fund's Motion for Summary Judgment is granted and OneBeacon's Cross-Motion for Summary Judgment is denied;
2. Judgment for Fireman's Fund is hereby entered in the amount of \$ 2,966,993.31, consisting of:
 - a. \$1,744,250.08 in principal, which is the total amount of Fireman's Fund's bills to OneBeacon for the ASARCO settlement;
 - b. \$1,207,690.08 in prejudgment interest at the New York statutory rate of 9% per annum from February 17, 2013, through October 26, 2020; and

c. \$[15,053.15] in prejudgment interest at the New York statutory rate of 9% per annum from October 27, 2020, through the date of this Judgment (calculated as \$430.09 per day).

3. Fireman's Fund is further entitled to post-judgment interest at the federal statutory rate pursuant to 28 U.S.C. § 1961 from the date this Judgment is entered until payment is made.

Pursuant to Local Civil Rule 54.1, any notice of taxation of costs, fees, and expenses shall be made within 30 days of the entry of this judgment.

Dated: New York, New York
November 30, 2020

SO ORDERED:

A handwritten signature in black ink, appearing to read "Paul G. Gardephe", written over a horizontal line.

PAUL G. GARDEPHE
United States District Judge